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MASSACHUSETTS BOARD OF CONCILIATION AND ARBITRATION

ANNUAL REPORT - 1982

The Board is an independent quasi-judicial labor relations agency which provides professional neutral labor relations expertise through a variety of dispute resolution services which include grievance and interest arbitration and mediation, referral arbitration, and fact-finding.

MISSION OF THE BOARD

The Board's mission is to foster positive, productive, and mature relationships between unions and employers in the public and private sector.

State policy relative to the Board's mission is set forth in the Massachusetts General Laws, Chapter 23C, Section 1, which states:

It is hereby declared to be the public policy of this state that the best interests of the people of the state are served by the prevention or prompt settlement of labor disputes; and it shall be the responsibility and objective of the board of conciliation and arbitration to take such steps as will most effectively and expeditiously encourage the parties to a labor dispute to agree on the terms of a settlement or to agree on the method and procedure which shall be used to resolve a dispute.

The Board seeks to fulfill its mission by:

- (1) Promoting within the Commonwealth the development of sound and stable labor management relationships between unions and employers.
- (2) Developing the art and practice of labor dispute resolution in the Commonwealth.
- (3) Providing a highly professional quasi-judicial arbitration process for swift, fair, competent and impartial decisions for disputes arising out of labor management collective bargaining contracts and collective bargaining negotiations.

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AUTHORIZATION

The Board of Conciliation and Arbitration receives its powers and duties from a number of Massachusetts general laws¹ and special acts², as well as from provisions in collective bargaining agreements between employers and unions.

Its jurisdiction involves three major labor relations areas:

- (1) Neutral assistance in the resolution of labor-management disputes arising out of negotiations leading to a collective bargaining contract.
- (2) Quasi-judicial arbitration involving the issuance of final and binding written decisions on disputes over the interpretation and/or application of the terms of existing collective bargaining contracts.
- (3) Labor relations policy-making through its advisory role to the executive and legislative branches, its power to promulgate rules and procedures for handling labor disputes, and its responsibility for advancing legislative proposals which relate to its statutory mandates.

ORGANIZATION

Established in 1886, the Board is the oldest labor relations agency of its type in the United States.

In 1981, as a result of legislative proposals developed by the Board, the Joint Labor Management Committee, and the Labor Relations Commission, significant changes were made in the State laws which affected both the Board and the other agencies. Previously a unit of the Department of Labor and Industries, under Chapter 23C of the Massachusetts General Laws, the Board became, for the first time since the beginning of this century, a separate, independent, neutral agency, temporarily located in the Office of Economic Affairs. Prior to the 1981 reforms, the Board was composed of three associate commissioners of the Department of Labor and Industries--one representing the labor community, one representing management, and a neutral chairman. This tripartite arrangement greatly inhibited the ability of the Board to process the arbitration case load and resulted in case backlogs. In order to deal effectively with the arbitration caseload changes were made in the laws.

1. See M.G.L. c.23C, c.91 App. §24, c.150, 150C c.150E c.161A 19; c.214 s.6A;

2. Chapter 760 of the Acts of 1962, which is contained in the note to M.G.L. c.150A §4.

As a result of these changes the Board now consists of a chairman, who is appointed to a five-year term by the Governor. The chairman may appoint two other members, one a representative of labor and the other one a representative of employers, to serve on a case-by-case basis. He may also appoint an assistant chairman and such staff as the Board may need. Because it is now a more streamlined organization, the Board is able to process and hear cases more quickly, making its services more responsive to the needs of the parties and more economical for the Commonwealth. The Chairman now may appoint arbitrators to sit with the full power of the Board to hear and decide arbitration cases. This ability to delegate has had a tremendous positive impact on the ability of the Board to process arbitration cases swiftly.

During FY 1982, in addition to the chairman and the vice chairman, the permanent staff consisted of seven mediators, four mediator/arbitrators, a head administrative assistant, two hearings stenographers, various legal interns, three ad hoc arbitrators, and one research assistant.

SERVICES

The Board fulfills its mission by providing several services to the Massachusetts labor relations community.

1. Mediation and Fact-Finding

Through mediation and fact-finding the Board's staff of professional mediators assists public and private sector managements and unions to resolve disputes arising out of contract negotiations. It also attempts prehearing settlement of grievance arbitration cases pending before the Board. Another form of mediation was created by c.351 of the Acts of 1981, which amended Section 11 of c.150E to permit the Labor Relations Commission to refer certain unfair labor practice cases to the Board. During fiscal 1982 eight such cases were referred to the Board. Five of these were settled by the Board so that the parties were able to avoid litigating those disputes.

The mediation service is the highest program priority. There are several reasons for this. First, negotiation disputes have the greatest potential for disharmony and usually generate, relative to other types of disputes, the greatest number of negative consequences for management, union, employees, and society. Second, disputes involving one group of employees can often set off a ripple effect involving different employee groups working for the same employer or different employers. Third, mediation services are not readily available from private sector dispute settlement organizations such as the American Arbitration Association, and are expensive when available.

2. Arbitration

The Board's staff of professional arbitrators hears and decides labor relations disputes involving the interpretation and application of collective bargaining agreements. Cities and towns are among the heaviest users of the arbitration service; this service can reasonably be interpreted as a local aid service from the state. The alternative, private arbitration, involves substantially higher costs.

Private sector parties also rely on the arbitration service, in particular small companies and unions that have limited financial resources to devote to processing grievances. The Board's arbitration service insures that such parties are not denied access to the neutral hearing process merely because of financial constraints.

3. Education

The Board participates with other government agencies and private individuals and groups in developing and presenting educational programs for the labor relations community. Through these programs the Board seeks to educate labor and management groups about the advantages of developing mature, productive, and harmonious relationships between labor and management and to instruct the parties in the methods, techniques and art of resolving disputes and building positive working relationships.

Disposition of Case Load

In fiscal year 1982 the Board received 349 requests for mediation, of which 226 resulted in settlement.* (See Table I) During the same period, 213 requests for arbitration were filed. Of these, 128 were decided, settled, or withdrawn, one referred to an outside arbitrator, and eighty-four carried over to the following year. (See Table II)

* Unsettled mediation cases were carried forth to the next fiscal year and resolved during that time span.

TABLE I

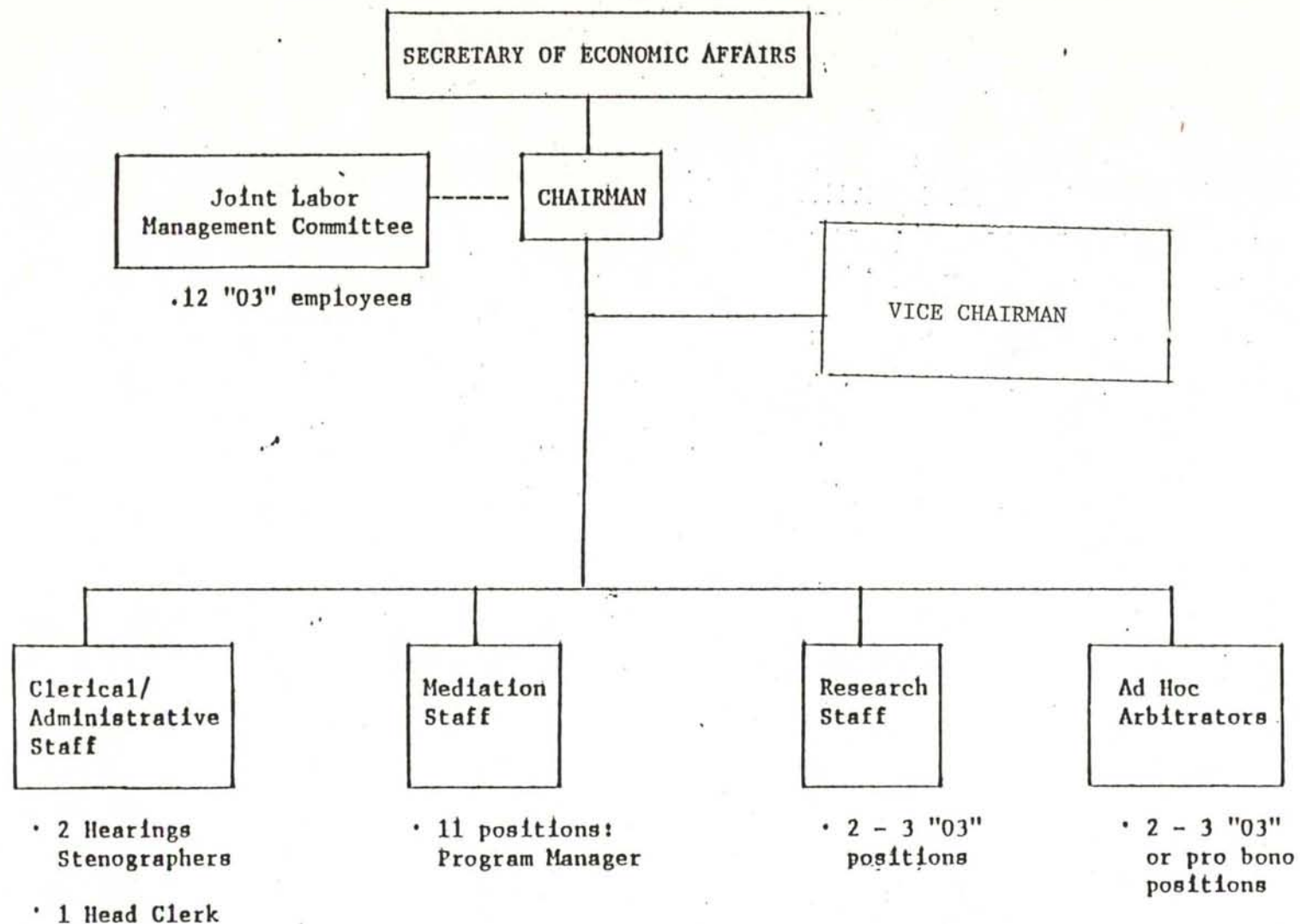
Mediation Cases Received in 1982.....	349
Case Dispositions as of June 30, 1982	
<u>Public Sector</u>	251
Settled.....	121
Settled in Mediation.....	117
Settled after assignment to factfinding.....	4
Open.....	114
Still in Mediation.....	106
Still in factfinding.....	7
Still in post-factfinding.....	0
Transferred to referral arbitration.....	1
Police/Fire.....	8
Settled.....	6
Open.....	2
Referral Cases (LRC).....	8
<u>Private Sector</u> (including grievance mediation).....	98
Settled.....	91
Open.....	7
 TOTAL.....	 349

TABLE II

1982 Disposition of Arbitration Cases Filed Through June 30, 1982

Cases Pending in 1982		Disposition as of June 30, 1982					Carried Into 1983
		Decided	Settled/ Withdrawn	Referral Arbitration	Stipulated Award	Other	
Filed in 1978	2	--	1	--	--	--	1
Filed in 1979	0	--	--	--	--	--	--
Filed in 1980	5	--	--	--	--	--	5
Filed in 1981	18	39	18	--	1	2	18
Filed in 1982	213	45	79	1	4	0	84
Total Dispositions By Category--1982	298	84	98	1	5	2	108

MASSACHUSETTS BOARD OF CONCILIATION AND ARBITRATION



KEY:

----- indicates that JLMC is within the Board, but not subject to its jurisdiction.